

REMARKS

In the Office Action dated October 21, 2005, claims 1-31 were presented for examination. Claims 1-31 were rejected under 35 U.S.C. §102(b) as being anticipated by *Kermani*, U.S. Patent No. 6,163,831.

Applicant hereby incorporates the remarks pertaining to *Kermani* presented in the Response to the Fourth Office Action filed August 5, 2005 for the pending application. The following remarks are provided in support of the pending claims and responsive to the Office Action of May 5, 2005 for the pending application.

In the Office Action dated October 21, 2005, the Examiner assigned to the application rejected claims 1-31 under 35 U.S. C. §102(e) as being anticipated by *Kermani* ('831). As noted in the Response to the Fourth Office Action, the *Kermani* patent ('831) relates to hardware elements for controlling access to shared synchronous memory. In *Kermani*, the agents 100, 104, 106, 108 are equally placed in a structure with each agent sharing access to synchronous memory. Each of agents may submit a memory access request wherein "a winning agent is preferably selected based on a priority level assigned to each of the requesting agents." Col. 4, lines 50-52. The Examiner equivocates a priority of *Kermani* to the hierarchy as claimed by Applicant. However, these two terms are not synonymous. In the communication filed July 21, 2004, a hierarchy was defined as an organizational technique in which items are layered or grouped to reduce complexity. A priority is defined as "superiority in rank, position, or privilege"¹, and a rank is defined as a "position in a hierarchy."² Accordingly, a hierarchy cannot be equated with a priority.

¹Merriam-Webster OnLine Dictionary, attached as Exhibit A.

²The New Lexicon Webster's Dictionary Of The English Language, page 827, attached as Exhibit B.

Additionally, a hierarchical structure does not necessitate the assignment of priorities to the elements within that structure. Conversely, a priority is an ordering of elements that does not necessitate the creation of a hierarchical structure. There is no provision in the system of *Kermani* for ordering the agents using their complexity into any form of a hierarchical structure. By definition, such an ordering is required in order to have a hierarchical system. Accordingly, *Kermani* does not teach the hierarchical organization of the processors as claimed by Applicant.

Furthermore, in Applicant's invention the placement of the processor requesting the lock in view of the hierarchical organization of the processors is determinative of the order of the processing of the lock between all elements within the hierarchy. The lock of *Kermani* is responsive to a priority level assigned to the requesting agent. See Col. 4, lines 51-52. There is no provision in *Kermani* for processing a lock responsive to a hierarchy, especially since *Kermani* does not organize its agents in a hierarchy. *Kermani* uses a linear arrangement of agents to grant locks based upon a priority level assigned to the agents. This is not processing a lock responsive to a hierarchical structure, it is processing a lock responsive to a ranking within a linear arrangement that only provides for the priority of an agent in relation to other agents. Accordingly, the locks of *Kermani* are not responsive to a hierarchy of processors, as the injection of such a hierarchical system in *Kermani* would in fact contradict *Kermani*'s own stated system of assigning locks based upon a priority level assigned to the agents.

With respect to the claimed lock of Applicant's invention, each of Applicant's independent claims 1, 13, and 22 includes a limitation that the lock is either an interruptible lock or a lock which waits using only local memory. The lock of *Kermani* is not a lock which waits using only local memory. As noted by the Examiner in the Fifth Office Action, page 4, "As *Kermani* notes at Col. 11, lines 47-67 discloses the arbiter provides the ability for any agent to lock its ownership of the shared memory (local memory)." In fact, the lock of *Kermani* waits on an arbiter or a pre-arbiter - the lock does not wait on memory. Applicant claims their lock as a lock which waits using only local memory. Accordingly, Applicant's invention utilizes only local memory while *Kermani* does not, and thereby functions differently than *Kermani*.

With respect to the limitation of an interruptible lock, Applicant respectfully disagrees with the Examiner extremely broad interpretation of *Kermani*. As noted in the response to the Fourth Office Action, *Kermani* implements use of a pre-arbiter and “then waits until the current owning agent experiences a lapse of, e.g. , one clock cycle in its consecutive memory access.” See Col. 11, lines 58-59. A lapse is defined as “the termination of a right or privilege through disuse or failure to follow appropriate procedures.”³ In *Kermani*, a waiting agent can access shared memory when another agent has terminated it’s lock on the shared memory. This is not interrupting a lock, this is accessing a lock that is otherwise available as it is not in a state of being held by another agent. Similarly, this is not an interruptible lock, as based upon the definition of the word “lapse” this is a lock that has been terminated and is available. Accordingly, there is no provision in *Kermani* for an interruptible lock.

Under the law of anticipation, “[f]or a prior art reference to anticipate in terms of 35 U.S.C. §102, every element of the claimed invention must be identically shown in a single reference. *Diversitech Corp. v. Century Steps, Inc.*, 7 USPQ2d 1315, 1317 (Fed. Cir. 1988). As mentioned above, *Kermani* does not show all of the elements as claimed by Applicant in pending claims 1-31. Specifically, *Kermani* does not show processors organized in a hierarchy, an interruptible lock and/or a lock which waits using only local memory, or processing the lock responsive to the hierarchy, as claimed by Applicant. “A previous patent anticipates a purported invention only where, except for insubstantial differences, it contains all of the same elements operating in the same fashion to perform an identical function.” *Saunders v. Air-Flo Co.*, 646 F.2d 1201, 1203 (7th Cir. 1981) citing *Popeil Brothers, Inc. V. Schick Electric, Inc.*, 494 F.2d 162, 164 (7th Cir. 1974) (holding patents were not invalid as being anticipated by or obvious in light of prior art). *Kermani* does not anticipate the invention of Applicants based upon the legal definition of anticipation. Although the prior art cited by the Examiner relates to a processor and a lock associated therewith, *Kermani* fails to show each and every element as presented in


³Compact Oxford English Dictionary, attached as Exhibit C.

Applicant's claimed invention. Accordingly, Applicant respectfully requests that the Examiner remove the rejection of claims 1-31 and provide allowance of this application.

Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. Accordingly, Applicants request that the Examiner indicate allowability of claims 1-31, and that the application pass to issue. If the Examiner believes, for any reason, that personal communication will expedite prosecution of the application, the Examiner is hereby invited to telephone the undersigned at the number provided.

In light of the foregoing remarks, all of the claims now presented are in condition for allowance, and Applicants respectfully request that the outstanding rejections be withdrawn and this application be passed to issue.

Respectfully submitted,

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Go

priority

One entry found for priority.

Main Entry: **pri-or-ity**

Pronunciation: prī-'or-ē-tē, -'ār-

Function: *noun*

Inflected Form(s): *plural -ties*

1 a (1) : the quality or state of being *prior* (2) : precedence in date or position of publication — used of taxa b (1) : superiority in rank, position, or privilege (2) : legal precedence in exercise of rights over the same subject matter 2 : a preferential rating, *especially* : one that allocates rights to goods and services usually in limited supply <that project has top *priority*>

3 : something given or meriting attention before competing alternatives

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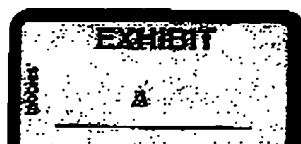
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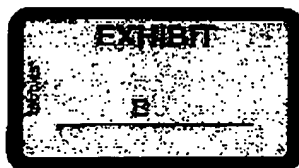
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THE
NEW LEXICON
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OF THE ENGLISH LANGUAGE

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ramification

827

ramification (ramifikéishn) *n.* the process of branching || the way in which branches are formed || a branch or offshoot || (biol.) a development of something which has expanded as by branching, the ramifications of the hard to follow || (fr. M.L. *ramificare* (ram-), to ramify)

ramifical (ramifikál) *pres. part.* ramifying *past part.* ramified *v.t.* to cause to form or branches or subdivisions || *v.i.* to spread branching || (fr. *ramifier*)

ramifical (ramifikál) *adj.* ramified || a victory of Marlborough, commanding allied Dutch and Danish armies, during the Spanish Succession

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ram-shackle (ramshákl) *adj.* (of a structure, machine etc.) so old or badly made or in such disrepair that it is in danger of falling to pieces || (fr. older *ramshackled*)

ramson (rémsn, rémsn) *n.* *Allium ursinum*, fam. Liliaceae, a species of garlic with broad leaves || (pl.) the root of this plant, used esp. in salads (O.E. *hramsan*, pl. of *hramsa*, wild garlic)

ram-till (rámtill) *n.* *Guizotia abyssinica*, fam. Compositae, a plant cultivated in India for its seeds, from which an oil is expressed (Hindi *ramtil*)

ram-u-lose (rámpulose) *adj.* having numerous small branches || (fr. *L. ramulosus*)

Ramée (réimes), Petrus (Pierre de la Ramée, 1515-72), French philosopher. He opposed Aristotelian scholasticism and encouraged skeptical thought. He was converted to Calvinism and was killed in the Massacre of St Bartholomew

ramus (réimes) *pl.* *rami* (réimai) *n.* (biol.) a branchlike structure, e.g. the barb of a feather, the mandible or its proximal part of a vertebrate, or a branch of a nerve || (=branch)

ram *past of RUN*

Ram-cé (réisel), Armand Jean le Bouthillier de (1626-1700), French religious reformer. His reform of the Cistercian order (c. 1662) gave rise to the Trappists

ranch (ránt) *1. n.* a farm, esp. in the southwest and western U.S.A. and S.W. central Canada, for breeding and raising cattle, horses or sheep || the people living and working on a ranch *2. v.t.* to manage a ranch || *v.i.* to raise (an animal) on a ranch || to use (land) as a ranch *3. n.* a person who owns or manages a ranch, or a ranch hand || (fr. Span. *rancha*, a mess (group dining together))

ranchero (rántféro) *n.* (esp. in the southwest U.S.A. and Mexico) a rancher (Span.)

ranchette (rántfét) *n.* 1. a small ranch *2. small ranch house*

ranch-house a house built on one level, sometimes with adjoining half levels. Cf. *LEVEL*

Ranchi (ránti) a town (pop. 122,000) in Bihar, India, in Chota Nagpur: silk weaving, lacquer

ranchman (rántmen) *pl.* *ranchmen* (rántmen) *n.* a rancher

ram-oid (ránsid) *adj.* (esp. of food) smelling or tasting foul because of chemical change, esp. due to age *ram-oid-ty* *n.* || (fr. *L. rancidus*)

ram-or, **Br. ram-cour** (ráykar) *n.* bitter, lasting hatred or malignant spite *ram-corous* *adj.* || (O.F. *rancour*)

Rand (ránd), Ayn (1905-82), U.S. writer, originator of objectivism, born in Russia. Her philosophy encompassed self-interest as a reason for action, self-fulfillment as a responsibility and productivity as the ultimate. She wrote *The Fountainhead* (1943) and *Atlas Shrugged* (1957) and edited her own newsletter (1962-82)

rand (ránd) *n.* the strip of leather or similar material between the heel and sole of a shoe or boot (O.E. *rand*, *rond*, a border, margin)

rand *n.* (abbr.) the basic monetary unit of the republic of South Africa, divided into 100 cents || a coin of the value of one rand

R & B *RHYTHM AND BLUES

R & D (acronym) for research and development

randi-ness (rándinis) *n.* the quality or state of being randy

random (rándem) *1. n.* (only in the phrase) at random in an unplanned way, without any predetermined direction, purpose or method *2. adj.* haphazard, random bombing || made or chosen at random, a random guess || (math., of numbers) as likely to come up as any others in a set (O.F. *randon* fr. *randir*, to run fast, gallop)

random access (computer) capability of obtaining stored information in any order — *random-access* *adj.* — *random-access memory* (RAM) *n.*

R and R (acronym) 1. rest and recreation; 2. rest and recuperation

Rand, the (ránd) *WITWATERSRAND

Randolph (rándolf, rándalf), Asa Philip (1889-1979), U.S. labor leader, organizer of the Brotherhood of Sleeping Car Porters (1926), vice-president of the AFL-CIO from 1955. He was a major influence in the organization of the federal Fair Employment Practices Committee and worked for civil rights in industry and government, directing the March on Washington for Jobs and Freedom (1963)

Randolph, Edmund (1753-1813), U.S. statesman. A delegate to the Constitutional Convention

rand (ránd) *n.* a homogeneous line or row of persons or things || a level of relative excellence, writing of the very first rank || position in a hierarchy || high social position, a man of rank || a row of soldiers standing or marching abreast || (pl.) the body of private soldiers, to rise from the ranks || (chess) one of the horizontal lines extending across a chessboard *2. v.t.* to arrange in a rank or ranks || to ascribe a level or position in a hierarchy to, to rank something very highly || to hold a higher rank than, a major ranks a lieutenant || *v.i.* to form a rank or ranks || to belong to a category in a hierarchy, he ranks with our finest poets || to be in the top rank

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rank

tion of 1787, he presented his Virginia Plan. He served (1789-94) as the first attorney general of the U.S.A.

Randolph, John (1773-1833), U.S. orator and Congressman from Virginia who vigorously supported the cause of states' rights

rand-y (ránti) *comp.* *rand-er superl.* *rand-i-cat* *adj.* lecherous || (prob. fr. obs. *rand*, var. of *RANT*)

range *RANI

range *past of RING*

range (réinds) *n.* a row, file or rank of things || a group of mountains considered as forming a connected system || a cooking stove, esp. one fired by solid fuel || grazing land for cattle, sheep etc., usually not fenced in || freedom to roam at will, to give free range to one's imagination || a maximum attainable distance, the missile has a range of 3,000 miles || field, scope, within one's range of vision || the distance of a target from a gun etc. or this as a setting on a sight || the maximum distance which an aircraft can travel without refueling || a place for practicing shooting || (statistics) the area of magnitude within which a variable lies || an order or class, the upper ranges of society || extent between limits, area of activity, experience or knowledge, within the income range of \$4-5,000, temperature range, a wide range of interests || the scope of the voice or an instrument || the region over which a plant or animal is distributed || one of the north-south rows of a township numbered east-west from the principal meridian of a public-land survey || (O.F.)

range *pres. part.* *-ranging* *past and past part.* *ranged* *v.t.* to place in a line or orderly pattern, trees were ranged along the roadside || to wander through, to range the countryside || to sail along or through || to pasture (cattle etc.) on a range || (Br., printing) to set (type) so that the start or end of the line or word falls directly under some other part of the matter being set, range the author's name under the last word of the title || (Br., printing) to make (lines of type, margins etc.) straight || to put in a class etc., he ranged himself with the opposition || to fire and observe single rounds from (a gun or guns) in an attempt to bracket a target || (math.) to arrange (an anchor cable) so that the anchor can descend without difficulty || *v.i.* to stretch in a line, the peaks ranged as far as he could see || to go about, move freely, they range through the desert, his speech ranged over a number of topics || (biol.) to be found over a specific region || to vary within limits, the temperature ranges between 0° C and 30° C || (Br., printing) to line up, lie in the same line || (of artillery) to fire and observe single rounds in an attempt to bracket a target || to use a range finder || (fr. *F. ranger*)

range finder an instrument for establishing the distance between an observer and a point (e.g. a target) || (photog.) a camera attachment for measuring the distance between a camera and what is to be photographed

ranger (réindsar) *n.* an officer who patrols a public forest || a soldier trained for close-range fighting || (Br.) an official who supervises a royal forest or park || (Br.) a senior girl scout

Rangoon (rángdun) the capital (pop. 3,662,300) and chief port of Burma, on River Rangoon. Industries: food processing (esp. rice), wood working, oil refining. It is dominated by the gilded pagoda of Shwe Dagon (18th c.). University (1920)

rang-y (réinds): *comp.* *rang-er superl.* *rang-i-est* *adj.* tall, slim and loose-limbed (RANGS *n.* or *v.*)

ra-ni, ra-nee (ráni): *n.* an Indian princess || the wife of a raja (Hind. *rání*)

Ranjit Singh (rángitín) (1780-1839), Sikh ruler. He conquered Kashmir and the Punjab, allied himself with the British and united the Punjab into the most powerful state in India

rank (ránk) *1. n.* a homogeneous line or row of persons or things || a level of relative excellence, writing of the very first rank || position in a hierarchy || high social position, a man of rank || a row of soldiers standing or marching abreast || (pl.) the body of private soldiers, to rise from the ranks || (chess) one of the horizontal lines extending across a chessboard *2. v.t.* to arrange in a rank or ranks || to ascribe a level or position in a hierarchy to, to rank something very highly || to hold a higher rank than, a major ranks a lieutenant || *v.i.* to form a rank or ranks || to belong to a category in a hierarchy, he ranks with our finest poets || to be in the top rank

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lapse

• **noun** 1 a brief failure of concentration, memory, or judgement. 2 a decline from previously high standards. 3 an interval of time. 4 Law the termination of a right or privilege through disuse or failure to follow appropriate procedures.

• **verb** 1 (of a right, privilege, or agreement) become invalid because it is not used, claimed, or renewed. 2 cease to follow the rules and practices of a religion or doctrine. 3 (**lapse into**) pass gradually into (a different, often worse, state or condition).

— ORIGIN Latin *lapsus*, from *labi* 'to slip or fall'.

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